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**FACSIMILE COVER SHEET**  
**OFFICIAL**

DATE: November 6, 2006

Our File No. 10975-1C

ADDRESSEE/ Office of Petitions Branch

FAX NO./ 1-571-273-8300

SENDER/ EXPÉDITEUR: NUMÉRO DE TÉLÉCOPIE:  
J. Wayne Anderson

FAX NO. / (613) 952-6082

NO. OF PAGES (INCLUDING COVERING PAGE)/ (31)  
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(CFC RECEIVED 8 pages.)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Applicant(s): Henryk Borowy-Borowski et al  
Serial No: 10/648,371  
Filed: 27 August 2003  
Title: Water-Soluble Compositions of Bioactive Lipophilic  
Compounds  
Docket No: 10975-1C  
Examiner: Sharmila Gollamudi  
Group: 1616  
Confirmation No: 3708

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**NOV 06 2006**

November 6, 2006

To: The Commissioner of Patents  
Office of Petitions  
P. O. Box 1450  
Alexandria, VA 22313-1450, U.S.A.

Sir:

We wish to advise that we never received the Notice of Allowance, mailing date of 6 October 2005. We assume that the application stands abandoned as of 6 January 2006.

We have thoroughly checked our files and our mail log records, we have no record of receiving the Notice of Allowance.

Accordingly, we request that a new Notice of Allowance be sent, including a new time period for reply.

A Petition to withdraw Holding of Abandonment based on Failure to Receive Office Action (Notice of Allowance) is attached.

**BEST AVAILABLE COPY**

In the absence of any indication in the MPEP that a Petition fee is required, no fee is submitted. If this is incorrect, and a fee is required, please deduct it from our Deposit Account 14-0429.

Respectfully submitted,

By:

J. Wayne Anderson  
Regn No: 28,158

:ch

National Research Council Canada  
Tel: (613)993-3899

Enclosure: copies of docket records  
copy of file docket (i.e. cover page of our file)

#### CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

  
J. Wayne Anderson

6 November 2006  
Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of )  
Applicant(s): Henryk Borowy-Borowski et al )  
Serial No: 10/648,371 )  
Filing Date: 27 August 2003 )  
Examiner: Sharmila S. Gollamudi )  
Art Unit: 1616 )  
Title: Water-Soluble Compositions of )  
Bioactive Lipophilic Compounds )  
Confirmation No.: 3708 )  
Docket No: 10975-1C )

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CENTRAL FAX CENTER**

**NOV 06 2006**

November 6, 2006

**OFFICIAL**

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED  
ON FAILURE TO RECEIVE OFFICE ACTION**

To: The Commissioner of Patents  
**Office of Petitions**  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**FACTS:**

The file record shows that a Notice of Allowance was mailed on 6 October 2005.

The Notice of Allowance includes our correct mailing address.

Our office does not have a history of not receiving Office actions.

The issue fee and publication fee have not been paid.

Accordingly, as of 6 January 2006, the application stands abandoned

All of our incoming mail is recorded in our mail received records.

All Official Actions and their deadlines are recorded on our file cover jacket.

The mail received records for the period of 29 September 2005 to 4 January 2006 ie. covering the three month time period starting from the mailing date of the Notice of Allowance, have been searched and no entry of the receipt of the Notice of Allowance was found.

The file cover jacket has been reviewed and there is no entry indicating logging in of a Notice of Allowance.

According to MPEP 711.03(C), Petitions relating to Abandonment [R-3], section I. A., the showing required to establish non receipt of an Office communication must include a statement from the practitioner stating that the office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and (mail)docket records indicates that the office communication was not received.

#### STATEMENT/SHOWING

As the practitioner/Patent Agent of record in this application, I hereby state that the office communication, in this case the Notice of Allowance having a date mailed of 6 October 2005, was not received by our office, and further attest to the fact that a personal search of the file jacket and

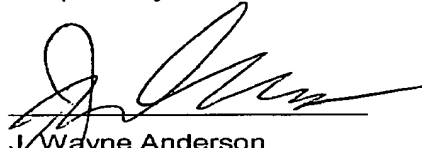
(mail)docket records indicates that the office communication was not received.

Copies of our file jacket and of our relevant mail docket records, where the non-received Office communication, in this case, the Notice of Allowance, would have been entered had it been received and docketed, are enclosed.

#### Conclusion

Accordingly, following the precedent in *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), and the apparent satisfaction of all of the requirements of the MPEP as noted above, we respectfully request that the Office issue a new Notice of Allowance, including a new time limit for reply.

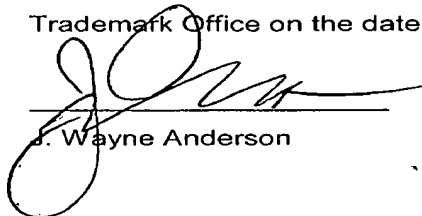
Respectfully submitted,

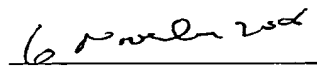
  
J. Wayne Anderson  
Patent Agent for Applicant  
Regn No: 28,158

ch  
National Research Council of Canada  
Tel: 613-993-3899

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J. Wayne Anderson

  
6 November 2006



|        |       |          |                                     |         |
|--------|-------|----------|-------------------------------------|---------|
| 38,538 |       | 11481-98 | Borden <sup>UU</sup> Ladner Geruvis | Sept 30 |
| 38,539 |       | 11543-1  | "                                   | Sept 28 |
| 38,540 |       | 11040-2  | CIPO                                | Sept 27 |
| 38,541 |       | 10701-99 | Freedman & Associate                | Sept 29 |
| 38,542 | Oct 5 | 11178-1  | Freedman & Associates               | Sept 28 |
| 38,543 |       | 11421-99 | Hong Kong Patent Agency             | Sept 16 |
| 38,544 |       | 11659-1  | USPTO                               | Sept 22 |
| 38,545 |       | 11342-1  | USPTO                               | Sept 22 |
| 38,546 |       | 11301-1  | Borden Ladner Geruvis               | Sept 30 |
| 38,547 |       | 11097-1  | Ridout & Maybee                     | "       |
| 38,548 | Oct 7 | 11495-98 | Patent Cooperation Treaty           | Sept 29 |
| 38,549 |       | 11057-99 | Borden Ladner Geruvis               | Oct 4   |
| 38,550 |       | 11738-98 | Osler                               | Oct 4   |
| 38,551 |       | 11270-14 | A. Aoki, Ishida & Associates        | Sept 30 |
| 38,552 |       | 11031-99 | MacRae & Co.                        | Oct 5   |
| 38,553 |       | 11705-1  | USPTO                               | Sept 27 |
| 38,554 |       | 11177-14 | Smart & Biggar                      | Oct 4   |